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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,339	08/08/2000	Evan John Kaimowitz	3092/1G844-US1	4215

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Darby & Darby PC
805 Third Avenue
New York, NY 10022

EXAMINER

TRAN, QUOC A

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,339

Applicant(s)

KAIMOWITZ, EVAN JOHN

Examiner

Quoc A. Tran

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/08/2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications: original application filed 08/08/2000.
2. Claims 1-19 are currently pending in this application. Claims 1, 6, and 12 are independent claims.

Claim Rejections - 35 USC § 103

3. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palm, Pub. No. US 2001/0042107 A1 issued Nov. 2001, in view of Dunning et al. Pub. No. US 2003/0229537 A1 issued Dec. 2003.**

In regard to independent claim 6, palm teaches Media server ... Public communications network ...multimedia device ...WML script ... media titles, or the play lists (Palm page. 3, paragraph [0043]; compare with claim 6 "*A method for fostering a community of users at a website which includes music related content, comprising the steps of:*");

Palm also teaches multimedia device 105 above, a means is needed to display content transmitted by the media server 115 (lists, titles, etc) with content generated locally on the client (Palm page. 4, paragraph [0074]; compare with claim 6 “a. *downloading a voice clip to a user at a client machine from the Web site;*”);

Palm also teaches The user may request to play an entire list of songs arranged in play lists (typically albums) in their original order or in random order, or individual songs (Palm page. 4, paragraph [0079]; compare with claim 6 “b. *playing the voice clip at the client machine;*”);

Palm also teaches, When the user selects to play a song or a list of songs, in step 325, a play list is generated and transferred from the media server 115 to the multimedia device 105 using an XML script (Palm page. 5, paragraph [0080]; compare with claim 6 “c. *selectively providing a response from the client machine to the Web server the response including a song name or artist's name;*”);

Palm does not explicitly teach, “d. *awarding a benefit to the user for the response provided that at least one predetermined criterion is satisfied*”, **however Dunning teaches**, Relatively few data points may be available, particularly when recommendations are based on user purchases (Dunning page. 1, paragraph [0011]);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with discovery engine from plurality internet entities of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enhance the

(advantage of the present invention is that it provides recommendations that are responsive to particular tastes and preferences of individuals, so as to enable implementation of a personalized radio station that presents music tracks likely to be enjoyed by the individual user, Dunning page. 7, paragraph [0116]).

In regard to dependent claim 7, Palm teaches multi media clips, and an indexing engine that contains pointers to content location (e.g. RDBMS) (Palm page. 2, paragraph [0041]; compare with claim 7 *"the same voice clip match within prescribed parameters."*); **Palm does not explicitly teach**, *"wherein at least one predetermined criterion is that plural responses from other users"*, **however dunning teaches**, it would be desirable for such radio stations to be able to determine which music tracks are likely to be enjoyed by a particular user, (Dunning page. 1, paragraph [0006]);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Palm selecting and delivering multimedia of musical peaces with discovery engine of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (systems, methods, and computer program products for relationship discovery, and more particularly to a system, method, and computer program product of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships, Dunning page. 1, paragraph [0003]);

In regard to dependent claim 8, Palm teaches transmitted by the media server 115 (lists, titles, etc) with content generated locally on the client (Palm page. 4,

paragraph [0074]; compare with claim 8 "*herein plural voice clips are downloaded to the user, the plural voice clips comprising a playlist.*").

In regard to dependent claim 9, Palm teaches identify and display all discovered Media Servers 115 available to provide multimedia content ... connected to the public communications network (Palm page. 4, paragraph [0077]; compare with claim 9 "*wherein the voice clips in the playlist are compiled so as to more evenly distribute voice clips to plural users.*").

In regard to dependent claim 10, Palm does not explicitly teach, "*including the additional step of deleting one or more voice clips from the database in response to at least one predetermined criterion.*", **however Dunning teaches**, decremented when a song is removed from the associated queue (Dunning page. 9, paragraph [0134]);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Palm selecting and delivering multimedia of musical peaces with the add/delete song to associate queue with hash tables from Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (systems, methods, and computer program products for relationship discovery, and more particularly to a system, method, and computer program product of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships, Dunning page. 1, paragraph [0003]);

In regard to dependent claim 11, Palm teaches the pieces of content, the ordering of play, and other information must also be communicated between the server

and the player before the transmission of the actual media (Palm page. 1, paragraph [0006]; compare with claim 11 "*wherein the user has voice clips downloaded to the client machine which have not been previously downloaded to that user.*").

5. **Claims 1-5, and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palm, Pub. No. US 2001/0042107 A1 issued Nov. 2001, in view of Negishi et al. (hereinafter Negishi) (US Patent No. 6,504,089 B1 issued Jan 2003), and further in view of Dunning et al. Pub. No. US 2003/0229537 A1 issued Dec. 2003.**

In regard to independent claim 1, Palm teaches Internet access media include xDSL (Palm page 1. paragraph [008]) and also teach provides a format for describing the pieces of content, the ordering of play, and other information that must be communicated between the server and the player before the transmission of the actual media (Palm page 1. paragraph [0010]; compare with claim 1 "*b. providing the voice clip to a server connected to the Internet;*");

Palm also teaches a method to allow the user many different ways of indicating their preferences (Palm page. 1, paragraph [0011]; compare with claim 1 "*c. selectively providing further information relating to the song to the server;*");

Palm also teaches information must also be communicated between the server and the player before the transmission of the actual media (Palm page. 1, paragraph [0006]; compare with claim 1 "*d. receiving at the client machine an electronic notification from the server that the song has been identified.*");

Palm does not explicitly teach, “*A method for identifying the name of a song input by a first user: a. inputting a voice clip of a portion of the song into a microphone connected to a client machine;*”, **however Negishi teaches**, method of searching for musical pieces,(Negishi col. 1, line 11), and Negishi also teaches, system includes a microphone 4 which is used by a user to input words or a melody, a speaker 5 for reproducing a performance of a musical piece, (Negishi col. 5, lines 49-50).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Palm for selecting and delivering multimedia of musical peaces, which is recorded, and input of Negishi teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (search system for selecting, from information containing a multiplicity of musical pieces, a musical piece which a user cannot remember or does not know, and for presenting the musical piece searched for to the user, and also relates to a musical piece search method for performing such a process, Negishi col. 1, lines 13-18).

In regard to dependent claim 2, Palm teaches multimedia device 105 connects using HTTP to a selected media server 115 and retrieves the default home page (Palm page. 4, paragraph [0078]; compare with claim 2 “*wherein the electronic notification includes a hypertext link to a predetermined page constructable by the server.*”).

In regard to dependent claim 3, Palm teaches a database of track, album, and playlist information (Palm page. 1, paragraph [0012]; compare with claim 3 “*wherein the electronic notification includes at least one of the name of the song and the artist.*”).

In regard to dependent claim 4, Palm and Negishi combination do not explicitly teach, “including the additional steps at the server of:

a. Receiving plural responses to the first. User's voice clip from plural additional users who are not the first user;

b. Testing the responses the first user's voice clip for matching data concerning at least one of the name of the song and the artist's identity; and

c. Transmitting to the client machine the electronic notification only in the event that a predetermined number of responses include matching data.” , however Dunning teaches, It would be desirable for such radio stations to be able to determine which music tracks are likely to be enjoyed by a particular user, (Dunning page. 1, paragraph [0006]; compare with claim 4 “*a. receiving plural responses to the first. User's voice clip from plural additional users who are not the first user;*”).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with discovery engine of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (systems, methods, and computer program products for relationship discovery, and more particularly to a system, method, and computer program product of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships, Dunning page. 1, paragraph [0003]);

and Dunning also teaches, It is desirable, then, to provide accurate methods and systems for discovering user preferences in particular domains and with respect to particular types of products and services (Dunning page. 1, paragraph [0007]; compare with claim 4 “*b. testing the responses the first user's voice clip for matching data concerning at least one of the name of the song and the artist's identity;*”);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with discovery engine of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (systems, methods, and computer program products for relationship discovery, and more particularly to a system, method, and computer program product of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships, Dunning page. 1, paragraph [0003]);

and Dunning also teaches, a transfer sequence for a channel with moderate bandwidth. Initially, tracks A and B are requested. Primary information for track A 2701 is downloaded. As primary information 2701 is downloaded, a low-quality version of track A 2705 is played, according to conventional streaming audio techniques. Downloaded primary information 2701 is cached (Dunning page. 21, paragraph [0314]; compare with claim 4 “*c. transmitting to the client machine the electronic notification only in the event that a predetermined number of responses include matching data.*”);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with discovery engine of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enabling (systems, methods, and computer program products for relationship discovery, and more particularly to a system, method, and computer program product of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships, Dunning page. 1, paragraph [0003]).

In regard to dependent claim 5, Palm and Negishi combination do not explicitly teach, “including the additional step of issuing a benefit to those additional users who submitted responses that had matching data.” **however Dunning teaches**, Relatively few data points may be available, particularly when recommendations are based on user purchases, (Dunning page. 1, paragraph [0011]);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with discovery engine from plurality internet entities of Dunning teaching. One of the ordinary skill in the art would have been motivated to modify this combination to enhance (advantage of the present invention is that it provides recommendations that are responsive to particular tastes and preferences of individuals, so as to enable implementation of a

personalized radio station that presents music tracks likely to be enjoyed by the individual user, Dunning page. 7, paragraph [0116]).

In regard to independent claim 12, incorporate substantially similar subject matter as cited in independent claim 1 above, and in further view of the following, and are similarly rejected along the same rationale;

Palm teaches phone wire based (Palm page. 1, paragraph [005]; compare with claim 12 “microphone of a telephone”, and Palm also teaches mechanism for authenticated multimedia device access, Palm page. 2, paragraph [0041]; compare with claim 12 “first user identification information.”).

In regard to dependent claim 13, incorporate substantially similar subject matter as cited in claim 2 above, and in further view of the following, and are similarly rejected along the same rationale;

In regard to dependent claim 14, incorporate substantially similar subject matter as cited in claim 3 above, and in further view of the following, and are similarly rejected along the same rationale;

In regard to dependent claim 15, incorporate substantially similar subject matter as cited in claim 4 above, and in further view of the following, and are similarly rejected along the same rationale;

In regard to dependent claim 16, incorporate substantially similar subject matter as cited in claim 5 above, and in further view of the following, and are similarly rejected along the same rationale;

In regard to dependent claim 17, Palm teaches "Automatically Choosing an IP Address in an Ad-Hoc IPv4 Network" [DHC] incorporated herein in its entirety. Multimedia device 105 is able to resolve a host name in a URL using DNS call. Multimedia device 105 is further able to issue HTTP requests (GET, POST) [HTTP] and receive HTTP responses containing MIME classified objects. Multimedia device 105 is further capable of at least displaying Wireless Markup Language compatible (WML) or HTML content (palm page. 3, paragraph [0047]; compare with claim 12 "*wherein the first user identification information is received automatically from the client machine upon accessing the server.*").

In regard to dependent claim 18, Palm and Negishi combination do not explicitly teach, "*wherein the first user identification information is received automatically from a cookie stored on the client machine.*" **however Dunning teaches**, cookies may be stored on users' computers, as is known in the art, in order to recognize a user who has previously visited a site. Thus, user behavior can be tracked over multiple visits, without requiring the user to set up a login identifier or to even be aware that his or her behavior is being tracked, (Dunning page. 1, paragraph [009]);

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the combination of Palm and Negishi for recoding, selecting and delivering multimedia of musical peaces with prior art technique which cited in the method of discovering relationships among items such as music tracks, and making recommendations based on user preferences and discovered relationships from Dunning teaching. One of the ordinary skill in the art

would have been motivated to modify this combination to (be able to determine which music tracks are likely to be enjoyed by a particular user, even in the absence of, or as a supplement to, explicit selection of particular tracks by the user, Dunning page. 1, paragraph [0006]).

In regard to dependent claim 19, Palm teaches allowed access to the media server 115 after completing a registration phase (Palm page. 5, paragraph [0093]; compare with claim 19 *"wherein the first user identification information is received from the client machine in response to manual input by the first user."*).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

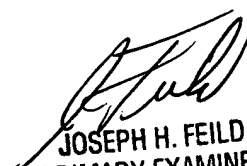
Jacobi et al.	U.S. Patent No. 6,064,980	issued	05-2000
Kelts	U.S. Pub No. 2002/0054134 A1	issued	05-2002
Eyal	U.S. Patent No. 6,484,199	issued	11-2002

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (703) 305-8781. The examiner can normally be reached on Monday through Friday from 8:30AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (703) 305-9792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Quoc A. Tran
Patent Examiner
Technology Center 2176
December 24, 2003


JOSEPH H. FEILD
PRIMARY EXAMINER